

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ANDREW A. HERZOG,

Plaintiff,

V.

BILL GIBBS/GIBSON, CEO of the  
Norfolk Regional Center Mental  
Health Institution,

Defendant.

8:09CV70

# MEMORANDUM AND ORDER

This matter is before the court on its own motion. The above-captioned matter has been provisionally filed on February 26, 2009. (Filing No. [1](#).) However, due to certain technical defects, the Complaint cannot be further processed until such defects are corrected. To assure further consideration of the Complaint, Plaintiff must correct the defect listed below. **FAILURE TO CORRECT THE DEFECT MAY RESULT IN DISMISSAL OF THE PETITION.**

Plaintiff has failed to include the \$350.00 filing fee. Plaintiff has the choice of either tendering the \$350.00 fee to the Clerk of the court or submitting a request to proceed in forma pauperis and an affidavit of poverty in support thereof. If Plaintiff chooses to do the latter, the enclosed pauper's forms should be completed and returned to this court. Plaintiff is cautioned that, if he is permitted to proceed in forma pauperis, he will still be required to pay the entire \$350.00 filing fee. However, he will be allowed to pay the filing fee in installments in accordance with 28 U.S.C. § 1915.

IT IS THEREFORE ORDERED that:

1. Plaintiff is directed to correct the above-listed technical defect in the

Complaint on or before April 16, 2009.

2. Failure to comply with this Memorandum and Order will result in dismissal of this matter without further notice.

3. The Clerk of the court is directed to send to Plaintiff the Form AO240, Application to Proceed Without Prepayment of Fees and Affidavit.

4. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: April 16, 2009: Check for MIFP or payment.

March 16, 2009.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge